



**Fw: "Friendly Backstop in New York"**

**Jon Capacasa** to: Christopher Day, Robert Koroncai, Jennifer Sincok

12/15/2010 12:33 PM

History: This message has been forwarded.

Let's consider this a done deal in the Report writing - there will be a formal backstop of NY point sources for actual flow. I would avoid using the term FRIENDLY in the report - maybe focusing that EPA and NY reached agreement on a path forward which is described in their WIP/

If you have any questions or heartburn let's talk and we can always get Kevin on the line.

----- Forwarded by Jon Capacasa/R3/USEPA/US on 12/15/2010 12:31 PM -----

From: Kevin Bricke/R2/USEPA/US  
To: Kevin Bricke/R2/USEPA/US@EPA  
Cc: Barbara Finazzo/R2/USEPA/US@EPA, Chuck Fox/CBP/USEPA/US, Jon Capacasa/R3/USEPA/US@EPA, Judith Enck/R2/USEPA/US@EPA, Katherine Antos/CBP/USEPA/US@EPA, Ruth Izraeli/R2/USEPA/US@EPA  
Date: 12/15/2010 12:20 PM  
Subject: Re: "Friendly Backstop in New York"

We now have full agreement on this with New York! New York's energy will now turn to getting us the WIP.

Kevin Bricke      Chuck As we discussed, New York is in agreement.

12/14/2010 05:13:08 PM

From: Kevin Bricke/R2/USEPA/US  
To: Chuck Fox/CBP/USEPA/US  
Cc: Jon Capacasa/R3/USEPA/US@EPA, Katherine Antos/CBP/USEPA/US@EPA, Ruth Izraeli/R2/USEPA/US@EPA, Judith Enck/R2/USEPA/US@EPA, Barbara Finazzo/R2/USEPA/US@EPA  
Date: 12/14/2010 05:13 PM  
Subject: "Friendly Backstop in New York"

Chuck

As we discussed, New York is in agreement with the attached. If we agree we're at yes.

Kevin



Friendly Backstop in New York2.docx

## **Friendly Backstop in New York**

New York submits a Phase 1 WIP consistent with WIP Input Deck 7. This moves us a long way in the right direction, but leaves a gap.

New York also recognizes in its Phase 1 WIP that there is a gap between the level of pollution reductions identified in its Phase 1 WIP and the level of reductions to be established by EPA. New York includes in the WIP a suite of additional actions (the "including but not limited to . . . ." concept) that could be undertaken to close the gap, but does not now commit to the implementation of any of these particular actions.

In its Phase 1 WIP, New York commits to develop a Phase 2 WIP that meets its Phase 2 allocations. New York may get relief in these allocations, and it may be able to take advantage of future EPA, DEC or other actions to meet these allocations. For example: EPA will re-examine N:P trading ratios, EPA will complete currently planned model revisions, New York can take credit for additional reductions associated with a new Ozone standard; New York's WIP will express the expectation that these analyses will be completed by EPA prior to finalization of the Phase 2 WIP.

EPA adds a wastewater treatment plant gross WLA backstop in the TMDL to close the gap. (The "gap" being the difference between the WIP Input Deck7 numbers and the EPA TMDL allocations.)

However, implementation of the TMDL/WLA backstop will be deferred until after the Phase 2 WIP is completed. In the interim, existing State permits which require treatment optimization, engineering evaluations to improve nutrient removal, and the implementation, within 18 months of permit effective date, of the recommendations from the engineering evaluations, will govern.